IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

WP(C).No. 35084 of 2007(B)

AS.48/2007 of SUB COURT, HOSDRUG
OS.463/2003 of MUNSIFF COURT, HOSDRUG
(EP.262/2007)
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PETITIONER:

JOSE PODIMATTATHIL, AGED 62 YEARS,
SON OF THOMAS, CHRISTIAN, AGRICULTURIST,
RESIDING AT PODIMATTATHIL HOUSE, PAVAL,
CHITTARIKKAL, CHITTARIKKAL VILLAGE,
HOSDURG TALUK.

BY ADV. SRI.KODOTH SREEDHARAN

RESPONDENTS:

ARAKKALAYA PALLIKUNNEL JOSEPH,
AGED 60 YEARS, S/O. MANI, CHRISTIAN, AGRICULTURIST
RESIDING AT ARAKKAL HOUSE, PAVAL, CHITTARIKKAL,
CHITTARIKKAL VILLAGE, HOSDURG TALUK.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

W.P.(C)NO.35084 of 2007 - B

Dated this the 28th day of November, 2007.

JUDGMENT

This writ petition is preferred seeking for a direction to the Subordinate Judge, Hosdurg to pass orders in Ext.P1(a) and to direct the Munsiff to keep in abeyance all execution proceedings in Ext.P3 pending disposal of the writ petition. The learned counsel for the writ petitioner submits that the party has preferred an appeal as A.S.No.48/2007 and he has moved I.A.No.1212/2007, a petition for stay of execution of the decree. Since no orders are passed therein till date, the execution court is proceeding to implement the decree for mandatory injunction, which if allowed to continue, would cause serious difficulty to the writ petitioner. There is considerable force in the said contention.

2. Therefore, I direct the Subordinate Judge, Hosdurg to dispose of I.A.No.1212/2007 in A.S.No.48/2007 within a time frame of six weeks from today and further direct the Munsiff, Hosdurg not to proceed with the execution proceedings in O.S..No.463 /2003 till the expiry of those six weeks.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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